UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALISA AGOFONOVA and AARON POU, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NOBU CORP.; NOBU ASSOCIATES, L.P.; NOBU NEXT DOOR, LC; NOBU 57 LLC; DREW NIEPORENT and RICHARD NOTAR,

Defendants.

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INDEX NO: 07 CIV 6926 (DAB)

DECLARATION OF ALISA AGAFONOVA

DECLARATION

I, Alisa Agafonova under penalty of perjury, swear/affirm as follows:

1. My name is Alisa Agafonova, I am over 21 years of age.

2. I was formerly employed by Nobu Las Vegas from approximately February 2004 through December 2005. I moved to New York and began working for Nobu 57 from approximately January 2006 through March 2007 as a server.

3. In or around June 2007, I began to research the possibility of bringing a lawsuit against the Defendants for tips and wages wrongfully withheld from me.

4. In or around July 2007, I contacted the New York State Department of Labor to explain the facts of my case and to determine what legal options were available to me. The Department of Labor informed me about the procedures of bringing a complaint against the Defendants.

5. Later, I researched the consequences of filing a complaint against the Defendants through the Department of Labor. Based on my research, I felt that I would not bring about any substantial change to the Defendants' pay practices if I brought my claims through the Department of Labor and that the Defendants would not suffer a significant enough financial penalty to prevent future violations.

6. I decided to contact Maimon Kirschenbaum in or around July 2007. I called Mr. Kirschenbaum and had an extended telephone conversation.

7. Later, I met with Mr. Kirschenbaum in-person to discuss the facts of my case and to present him with my relevant documents.

8. After the filing of the lawsuit, Mr. Kirschenbaum contacted me to determine whether I would be interested in being interviewed by the major New York newspapers for this case. I agreed and was interviewed by approximately three major newspapers. These interviews lasted approximately 2 hours and resulted in significant publicity for the lawsuit.

9. After my interviews were publicized, including articles which included my picture, I was afraid that I would lose my job as a cocktail waitress at the Mandarin Oriental Hotel. Luckily, I was a member of a union and did not suffer any adverse consequences.

10. I know that I did suffer permanent, adverse negative consequences as a result of my lawsuit against the Defendants. For example, I spoke with various Captains at Nobu 57 who informally told me that as a result of the publicity I received from this lawsuit, it is unlikely that I would find another position in the restaurant industry.

11. After the lawsuit was field, I spent countless hours speaking with as many current employees at Nobu 57 as possible about the lawsuit. Initially, I did not tell these employees that I spoke with Mr. Kirschenbaum but wanted to see whether other employees were interested in joining.

12. In these conversations, I informed these employees that I believed the Defendants were committing tip and wage violations and that we should consider legal action. All of these employees told me that although they thought that the Defendants' pay practices were unfair, they were fearful of losing their jobs if they took legal action.

13. After these initial conversations, I coordinated a more formal meeting between myself and a few of these employees to have a detailed discussion about the lawsuit.

14. Besides this meeting, I also spent significant time communicating with approximately 10 other current employees via telephone and/or email to discuss the lawsuit.

15. During my employment at Nobu 57, I was given an employee roster list with contact information for approximately 40 other employees. After the lawsuit was filed, I tried to contact all of the employees on this list. When doing so, I would inform them of the lawsuit and asked them to join because I believed it was critical to include additional plaintiffs to the case.

16. I spoke with many of these employees at length and because many of them were hard to reach, I needed to make several phone calls just to schedule a convenient time to talk.

17. In total, I estimate that I spent approximately 10-15 hrs contacting these employees.

18. I also met with Mr. Kirschenbaum and Michael Palmer at Joseph & Herzfeld on several occasions to discuss the case and inform them of any important facts that I remembered. I would also present the attorneys with any relevant documents that I came across.

19. After securing the participation of 2 other plaintiffs, I set up separate meetings between them and Mr. Kirschenbaum. I attended these meetings.

20. Prior to the days leading up to the mediation between the parties, I convinced approximately 10 new plaintiffs to join the lawsuit. This was accomplished through numerous meetings, telephone calls and emails. I estimate that I spent approximately 7 to 8 hrs securing these new plaintiffs.

21. In total, I estimate that my efforts resulted in more than 15 new plaintiffs joining the lawsuit. Upon information and belief, all of the employees from Nobu 57 who joined the lawsuit did so because of my recruitment efforts.

22. I attended the mediation on May 13, 2008, which lasted approximately 12 hours. During the mediation, I discussed the case with my attorneys, evaluated the case on behalf of the class and made it clear to the mediator that we were prepared to proceed with further litigation if we did not achieve a favorable result.

23. After the lawsuit was settled, I still received phone calls and emails from other Nobu 57 employees to discuss the status of the case and answer any of their questions.

I affirm, under penalty of perjury, that the above and foregoing information is true and correct.

Dated: January 28, 2009

Alisa Agafonova